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C O N F I D E N T I A L SECTION 01 OF 02 JERUSALEM 001491

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NEA FOR FRONT OFFICE AND IPA, NSC FOR ABRAMS/SINGH/WATERS

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TAGS: [KIRF](#) [IS](#) [PBTS](#) [VT](#) [KWBG](#)

SUBJECT: VATICAN NEGOTIATIONS CONTINUE ON JERUSALEM PROPERTY, LEGAL/FISCAL MATTERS

REF: A. VATICAN 106

- [1B.](#) VATICAN 93
- [1C.](#) 06 VATICAN 247
- [1D.](#) 05 JERUSALEM 4770
- [1E.](#) 05 JERUSALEM 311
- [1F.](#) 04 JERUSALEM 2763

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Classified By: Consul General Jake Walles, for reasons 1.4 (b) and (d)

[11.](#) (C) Summary. Chief Vatican negotiator Fr. David Jaeger told PolOff July 12 that his team had just wrapped up a "positive but incomplete" negotiating session with the GoI on a general legal/fiscal agreement and made some progress on tax exemptions, judicial remedies and property claims. Jaeger said the GoI agreed in principle to treat the Catholic church as a non-profit organization for taxation purposes, but did not commit to specific language or address Vatican concerns on local taxation. He said the parties are close to agreement on judicial panels for religious property disputes that would operate like courts but be responsible to the Cabinet, not the judiciary. He said the GoI tentatively agreed to transfer possession of most of the Cenacle (Last Supper room and adjoining property) and provide restitution for Jerusalem church properties. He said the Holy See wants the GoI to agree to a set timetable for future meetings and proceed with the written draft, not discuss possible solutions. End summary.

Some Progress in Latest Round of GoI-Vatican Talks

[12.](#) (C) The Vatican's chief negotiator with Israel, Fr. David Jaeger, told PolOff July 12 that his team had just wrapped up a "positive but incomplete" negotiations at the GoI MFA (led by GoI MFA Legal Advisor Ehud Keinan and including the Justice and Finance Ministries and National Insurance office representatives) on a general legal/fiscal agreement. This session built on progress from the May plenary session at the Vatican (Ref B) on draft provisions for national/local tax exemptions, access to Israeli courts on religious property matters, and historical property disputes. Jaeger said he is frustrated with the "glacial pace of negotiations" (talks on a legal/fiscal agreement began in 1995) and the Israeli team's apparent lack of empowerment and tendency to avoid written commitments. But, he said he is nonetheless pleased with recent progress on tax exemptions, court access and property restitution.

Narrowing Differences on

Tax Exemptions

¶13. (C) Jaeger said the GoI agreed in principle to treat the Catholic church as a non-profit organization for taxation purposes, but did not commit to specific language to effect this fact. Jaeger said he wants the GoI to exempt the Catholic church from any future tax system changes (arguing that without such a proviso, the Knesset can undermine the legal/fiscal agreement by introducing a new tax system not contemplated in the agreement being negotiated). He said the GoI has thus far balked at this suggestion, but a possible compromise is to exempt the church from new taxes unless they are mutually-agreed and revenue neutral. Jaeger said he is also asking the GoI to agree that the legal/fiscal agreement is a permanent settlement of all tax claims against the church. (Note: the GoI continues to assess taxes against the Catholic and other Christian churches in Jerusalem, but generally does not attempt to enforce payment. End note).

¶14. (C) Jaeger said he expects the GoI to propose a formula for local tax exemptions, but he has not seen details. He said the GoI team said it would propose to exempt church properties from the Arnona (Jerusalem's local property tax) and clear local tax debts that the GoI claims have accumulated on religious property. Jaeger said he does not expect local governments to try to collect accrued tax debts, but the church is not comfortable with the power relationship (in the GoI's favor) created by potential tax liabilities, usually in millions of shekels, that the Municipality keeps tallying up on Jerusalem's churches, monasteries and other Catholic properties.

Court Access: Tentative Agreement on Executive Judicial Panels

¶15. (C) Jaeger said the Vatican and GoI teams are close to

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agreement on establishing judicial panels for religious property disputes that would operate like courts and rely on Israeli precedents and rules of discovery/evidence, but would be responsible to the Cabinet, not the judiciary. He said the GoI will not allow, and he will not insist on, access to the Israeli justice system for property disputes.

Jerusalem Church Properties: Holy See Seeks Restitution, Immunity from Taking

¶16. (C) The GoI tentatively agreed to transfer possession of most of the Cenacle (Last Supper room and adjoining property) to the Catholic church and provide restitution for Jerusalem church properties taken in 1948 and 1967, Jaeger said. He said the Vatican wants to move beyond discussion of individual properties, however, and establish a rules-based relationship with the GoI on church property matters. He said the rules would include limits on the GoI's power of eminent domain over church properties. Jaeger said he believes churches should be immune from any government takings, but he will be satisfied if the GoI is required demonstrate a "compelling state interest" to Israeli courts before it can take possession

Next Steps in Negotiations

¶17. (C) The GoI and Holy See have much work to do before a scheduled December plenary session, Jaeger said, but have thus far only committed to a September 3 negotiating session before then. He said the Holy See wants the GoI to agree on a timetable for future meetings and make progress on the "incremental draft" agreement rather than explore possible solutions without written commitments. He also said the Holy See is eager for the Knesset to ratify the 1993 Fundamental

Agreement, noting that the Vatican is reluctant to continue steps to build GoI-Vatican ties until the Fundamental Agreement is a binding treaty, not just an informal statement of principles.

WALLES